

ANALYSIS AND COMMENTARY

Senate Foreign Relations Committee Report

Committee on Intelligence Operations

1. The draft report emphasizes that the purpose of the resolution is to create a committee whose duties would be "to keep itself fully and currently informed" of the intelligence activities of agencies of the U.S. Government "insofar as the activities of such agencies relate to foreign intelligence or counterintelligence." This firm statement of purpose is modified considerably later in the report when it appears desirable to minimize the impact of the creation of such a committee.

However, the term "fully and currently informed" is "watchdog committee" language which appears in the Atomic Energy Act provision requiring that the Joint Committee on Atomic Energy be kept "fully and currently informed" on matters pertaining to atomic energy.

While the opponents of the proposed resolution have taken issue with any concept which would enlarge the number of legislators now privy to intelligence activities, it has not been adequately stressed that the function of intelligence is quite different from normal governmental

functions and quite unique in a democratic form of government. Intelligence serves as the eyes and ears of the Executive Branch. To the extent that an intelligence organization engages in covert activities, it is an arm of the Executive Branch carrying out duties assigned to it by higher authority. These functions should not be the subject of or the cause of widespread, open debate.

The effectiveness of an intelligence organization depends largely upon the quantity and quality of its sources of information. Many of these intelligence sources, including intelligence sources of friendly nations are bound to be reluctant to divulge more sensitive information if they have reason to believe that it will become a matter of widespread congressional scrutiny and debate.

2. The modification referred to in Point 1 begins with the third sentence of the report. Having stated the purpose of the resolution, the report then says it would simply authorize the appointment of three members of the Committee on Foreign Relations to the existing Senate committee (emphasis added) which deals with the activities of the CIA. This is not accurate as the resolution creates a new and separate committee which is far different from the present Subcommittees. It also gives the erroneous impression (correctly stated later in the report)

that there is but one committee in the Senate at the present time. It perpetuates a fiction which appeared early in the debate on the resolution which, with repetition, is now stated as a fact.

3. It has not been convincingly demonstrated that at present Senate oversight over CIA is exercised by two separate committees. Were it not for the fact that several members happen to hold positions on both of these Subcommittees, they (like their House counterparts) might choose to meet separately. The concurrent membership of several members has made joint meetings of these two Subcommittees a matter of convenience. However, they are no more a single Subcommittee than were the Preparedness Subcommittee and the Committee on Aeronautical and Space Sciences at the time it was deemed convenient and expedient for these two groups to meet jointly when they were chaired by the same individual, the then Senator Lyndon B. Johnson.

4. The fact that the resolution as reported does not authorize the employment of any personnel nor does it authorize the expenditure of any money from the contingency fund of the Senate, represents another modification of the original resolution in an attempt to secure passage. Also the provision specifically including the Federal Bureau of Investigation in the jurisdiction of the Committee was withdrawn.

However, once the Committee is established, it would be quite easy to handle the matters of Committee staff and Committee expenditures by subsequent administrative action or amendatory resolution. The withdrawal of the specific reference to the FBI is meaningless since it would be included under the general provisions in the same way as any other agency exercising an intelligence or counterintelligence function.

5. The stated duties of the Select Committee would seem to make a complete jumble of existing committee jurisdictions. It would, in fact, invade the existing jurisdiction of six Government units and four existing Senate committees. They are: (a) CIA - Armed Services Committee; (b) DIA - Armed Services Committee; (c) NSA - Armed Services Committee; (d) Bureau of Intelligence and Research, Department of State - Foreign Relations Committee; (e) AEC - Joint Committee on Atomic Energy; and (f) FBI - Judiciary Committee. It is not clear, from its language, whether the resolution proposes to completely divest these existing subcommittees of all of their responsibilities with respect to these departments and agencies or whether it intends to establish a situation of concurrent jurisdiction.

6. The stated purpose of the proposed committee was discussed under Point 1 above. We now find further modification of that statement

in the sentence which says "it should be emphasized that Senate Resolution _____ does not provide for an intelligence investigation of U.S. Government intelligence activities." The report goes on to say that the primary effect is merely to "formalize" existing "informal arrangements" by which some members of the Armed Services and Appropriations Committees have been made privy of CIA activities and to add to that group three members from the Committee on Foreign Relations. As noted above, this is not accurate and this latter phrase raises a question as to whether the proponents of this resolution would expect the three members of the Foreign Relations Committee to be a pipeline to the full Committee or to exercise their independent judgment without divulging the details of the Select Committee's considerations to their colleagues on the Foreign Relations Committee.

If the three members do not report to the full Committee, one of the primary arguments asserted by the proponents of this legislation is lost. This argument was based on a refusal by a former Director of Central Intelligence to divulge to the full Foreign Relations Committee information on the details of intelligence operations. These proponents have asserted the right of the Foreign Relations Committee to receive this information. It would be logical to assume that these proponents

would then expect this information to be made available to the Committee through their representatives on the Select Committee on Intelligence Operations.

7. The report states that a secondary effect of this resolution is to provide the Senate with an instrument to deal with the entire intelligence community, something which is not now done by Congress at all. This reemphasizes the jurisdictional problem set forth in paragraph 5.

8. The report states that as a matter of principle, the Committee on Foreign Relations believes that "selected members" should be in a position to receive information regarding CIA activities. This again raises the question of the status of the three Foreign Relations Committee members on the Select Committee.

9. There is a statement in the report indicating that a formal committee of the type proposed by the resolution should protect CIA from uninformed public criticism by providing a more formal arrangement for Senate oversight. It is difficult to see how this proposal will provide the type of protection described here. This type of protection can be and has been provided by the Senate Committees already in existence when it has been deemed to be necessary.

10. As a conclusion, the report suggests that it is in the national interest that three members of the Foreign Relations Committee "...have access to the same information that is given to certain members of the Committees on Appropriations and Armed Services." It should be pointed out here that all members of the Senate Foreign Relations Committee have been given access to intelligence information on the assumption that this information would be of assistance to them in their determinations concerning U.S. foreign policy. The Agency has always provided intelligence information to the Foreign Relations Committee and proposes to continue this practice. All that has been denied the Foreign Relations Committee is the details of CIA's covert activities.